

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Application No. 2649 of 2016

District : Ahmednagar

Somnath s/o. Jalindar Shinde,
Age : 36 years,
Occupation : Agriculture,
R/o. Chapadgaon,
Taluka : Karjat,
District : Ahmednagar.

.. Applicant.

versus

The State of Maharashtra,
Through Police Inspector,
Police Station, Karjat,
Taluka : Karjat,
District : Ahmednagar.

.. Respondent.

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Mr. M.S. Bhosale, Advocate, for the applicant.

Mr. S.J. Salgare, Advocate, for the respondent.

Mr. N.V. Gaware, Advocate, for the original complainant.

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CORAM : N.W. SAMBRE, J.

DATE : 13TH JUNE 2016

ORAL ORDER :

Heard.

2. The applicant is seeking pre-arrest bail in

connection with Crime No. I-81/2016, registered at Police Station, Karjat, District Ahmednagar, for offences punishable under Sections 323, 504, 506 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The prosecution story is that on 14th April 2016, the applicant came in front of house of the applicant and uttered in abusive language on account of caste of the complainant due a previous complaint filed by the complainant against the applicant. It is alleged that the applicant also slapped the complainant. Hence, the crime came to be registered against the applicant for the aforesaid offences.

4. While trying to make out a case for grant of pre-arrest bail, the learned Counsel for the applicant would submit that the applicant is falsely implicated in the crime. According to him, the complaint filed by the applicant in respect of encroachment on Chondi-Chapalgaon road has resulted into issuance of notice to remove the encroachment, which is one of the reasons that the applicant is falsely implicated in the crime in question. The learned Counsel for the applicant would then submit that there appears to be dispute between the Vice-Chairman of the Agricultural Produce Market Committee, Karjat, and the applicant as is apparent

from the papers of investigation. As such, the applicant's false implication cannot be ruled out. He would then submit that Crime No. I-75/2016 was registered at the behest of the applicant against the rival group members for offences punishable under Section 143, 147, 148, 149, 452, 323, 504, 506, 427 and 395 of the Indian Penal Code and, as such, the applicant is falsely implicated by the complainant in the present crime.

5. The learned Addl. Public Prosecutor opposed the application on the ground that ingredients of Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1889, are satisfied. He would then submit that there are eye witnesses to the incident and they have specifically named the applicant. The learned Addl. Public Prosecutor, who is assisted by Mr. Gaware, the learned Counsel for the original complainant, would then submit that there are criminal antecedents against the present applicant and according to him, custodial interrogation of the applicant is very much necessary.

6. With the assistance of the learned Counsel for the parties, I have scanned the investigation papers. From the statement of each of the eye witnesses, it is apparent that there is a reference to the incident wherein the present applicant had

refused to provide water to the complainant. It is then required to be noted that the allegation of the applicant, that the present complaint came to be filed against him due to the notice issued to the complainant in respect of encroachment, is not at all investigated though specific ground to that effect is raised. In view of the earlier incident as is narrated in the statement of eye witnesses and the unexplained delay of one day in lodging the FIR, particularly taking into account conduct of the complainant that the lodging of complaint was delayed as she was in celebrating mood, in my opinion, false implication of the present applicant cannot be ruled out.

7. Hence, the Application is allowed with the following directions :-

(a) In the event of arrest of the petitioner, in connection with Crime No. I-81/2016, registered with Police Station, Karjat, District Ahmednagar, for offences punishable under Sections 323, 504, 506 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, he be released on bail on his furnishing P.R. Bond in the sum of Rs. 25,000/- with one surety in the like amount.

(b) The applicant shall attend the concerned Police

Station intiallyly on 25th and 26th June 2016, between 10.00 a.m. and 12.00 noon, and thereafter as and when called by the Investigating Officer.

(c) The applicant shall not try to contact the prosecution witnesses and he shall not try to tamper with the prosecution evidence in any manner whatsoever.

8. The Application stands disposed of in the above terms.

(N.W. SAMBRE)
JUDGE

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